IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 3RD JULY 2007 / 12TH ASHADHA 1929

Crl.MC.No. 2120 of 2007()

CRIME NO.353 OF 1993 OF PAYYANNUR POLICE STATION

PETITIONER: ACCUSED NO.5:

ISMAIL, S/O.KUNHAHAMED, MONANGAT HOUSE,
RAMANTHALI P.O., VADAKKAMBAD, PAYYANNUR.

BY ADV. SRI.P.M.HABEEB

RESPONDENTS: STATE AND COMPLAINANT;
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1. STATE OF KERALA, REPRESENTED BY PUBLIC
PROSECUTOR HIGH COURT OF KERALA, ERNAKULAM.

2. SUB INSPECTOR OF POLICE, PAYYANNUR.

BY PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 03/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.2120 of 2007

Dated this the 3rd day of July 2007

O R D E R

The petitioner faces indictment for offences punishable under Section 324 read with 149 I.P.C. Final report has been filed. The case was registered as early as in 1994. The petitioner was not available and the case against him has been split up. The same has now been transferred to the list of long pending cases as LPC.No.26/99. The petitioner now faces the predicament of a non-bailable warrant issued by the learned Magistrate chasing him.

2. According to the petitioner, he is innocent. His absence was not wilful. He is willing to surrender before the learned Magistrate and claim regular bail. But he apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. He, therefore, prays that directions under Section 482 Cr.P.C. may be issued to the learned Magistrate to release the petitioner on bail when he appears and applies for bail.

2. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate, the circumstances under which he could not earlier appear before the learned Magistrate.

3. I find absolutely no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have been issued in Alice George vs. Deputy Superintendent of Police [2003(1)KLT 339].

4. In the result, this Crl.M.C is dismissed but with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

(R.BASANT, JUDGE)

jsr // True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007